

Remarks

The present amendment is submitted in response to an Office Action dated July 8, 2004. In the Office Action, the Examiner rejected claim 38 as lacking antecedent basis for the limitation “said portion” in line 2. Moreover, claims 31, 33-35, 38-46 and 70 were rejected under 35 U.S.C. § 102(e) as being anticipated by Strand et al. In addition, claims 32, 36, 49-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Strand et al. in view of Schlaeppi. Finally, claims 47 and 48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Strand et al. in view of Bailey.

Applicants note with appreciation that the Examiner has withdrawn the rejections of the claims under 35 U.S.C. §§ 102 and 103 over Huizinga, Schlaeppi and Bailey. Further Applicants respectfully note that a disposition for claim 37 has not been detailed by the Examiner in the latest office action. Applicants respectfully request clarification whether claim 37 is rejected or would be allowable if rewritten in independent form.

As a preliminary matter, Applicants respectfully request reconsideration of the finality of the Office Action dated July 8, 2004. Applicants respectfully submit that the Examiner is mistaken that the Applicants' amendment necessitated the new grounds of rejection in the last Office Action. On the contrary, Applicants respectfully submit that the new ground of rejection could and should have been made in the first Office Action dated December 17, 2003, and that by citing Strand et al. now prejudices the Applicants. Applicants respectfully point out that Strand et al. was cited in Applicants' Information Disclosure Statement dated February 27, 2003, which the Examiner indicated as having been reviewed for the first Office Action dated December 17, 2003. However, the Examiner failed to cite Strand et al. in that Office Action and waited until the July 8, 2004 Final Office Action to reject the claims. Applicants respectfully request that the Examiner

reconsider the finality of the last Office Action, and enter the amendments and consider the remarks herein.

With respect to the rejection of the claims, Applicants respectfully submit that independent claim 31 has been amended to define over the prior art, taken singly or in combination. Specifically, claim 31 has been amended to define that the plurality of layers comprises a first surface and a second surface, wherein the first laser scored pattern is disposed in at least one of the layers of the flexible film in only one surface of the film and not through both surfaces of the flexible film. Moreover, claim 31 defines that the flexible film comprises a plurality of layers and that the first laser scored pattern is in at least one layer of the plurality of layers of the flexible film. These features are nowhere taught by Strand et al. or any other prior art.

More specifically, Strand et al. clearly show that the score or line of weakness in the film is disposed in both surfaces of the flexible film. For example, the figures illustrating cross-sectional views of the bags taught in Strand et al. illustrate a score line in both the front and back surfaces of the bag. It appears that Strand et al. teaches scoring the film in both surfaces as a way to increase the ability to tear the film. However, the present invention does not require scoring on both the front surface and the back surface of the flexible film.

Moreover, the Examiner rejected the claims based on the mistaken belief that Strand et al. shows a multiple layer film. However, the present invention defines that the flexible film has multiple layers and that the laser score is within the flexible film through at least one of the layers of the multilayer flexible film. The Examiner cites col. 11, lines 47-48 and FIG. 20 for the proposition that Strand et al. teaches a multilayer film as in claim 31. However, Strand et al. actually teaches the incorporation of a header material

206 that eliminates the need for a tear line. It is believed that Strand et al. describes that the film can be torn because of the header material, thereby eliminating the need for the tear line. Applicants respectfully submit that Strand et al., therefore, actually teaches away from combining a score line with a multilayer film, as required in claim 31 of the present invention.

With respect to claim 44, Examiner claims that Strand et al. teach a flexible film comprising a recurring symbol on the surface of the flexible film for indicating where to dispose said first laser-scored pattern in the flexible film. Specifically, Examiner cites FIG. 5, number 24. However, FIG. 5, number 24 clearly relates to a notch that has been disposed in the film of Strand et al. to aid in the tearing of the film. Strand et al. does not teach that the notch is a recurring symbol to indicate where to dispose a laser-scored pattern in the surface of the film. In fact, Strand et al. describes the notch 24 in col. 9, lines 8-10: “The tear notch 24 provides a starting point for removing the fold structure 11, which is located above the zipper assembly 20.”

Under 35 U.S.C. § 102, anticipation requires that a single prior art reference must disclose each and every element of Applicants’ claimed invention. Since Strand et al. fails to disclose the elements defined in amended claim 31, the rejection thereto has been overcome and should be withdrawn.

Claims 32-50 and 70 depend from independent claim 31. These claims are further believed allowable over the references of record for the same reasons as set forth above with respect to their parent claims since each sets forth additional novel components of Applicants’ novel flexible film.

CONCLUSION

In view of the foregoing remarks and amendments, Applicants respectfully submit that all of the claims in the application are in allowable form and that the application is now in condition for allowance. Applicants further submit that neither further search nor consideration would be necessitated by entry of this amendment. Therefore, entry is proper and should be effected.

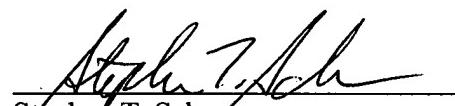
If, however, any outstanding issues remain, Applicants urge the Examiner to telephone Applicants' attorney so that the same may be resolved and the application expedited to issue. Applicants respectfully request the Examiner to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,

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Date: November 8, 2004

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